

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

In re Aurora Dairy Corp. Organic Milk  
Marketing and Sales Practices Litigation

Civil Action No. 4:08-md-1907-ERW  
ALL CASES

**PLAINTIFFS' MOTION AND MEMORANDUM IN SUPPORT TO POSTPONE  
HEARING ON PLAINTIFFS' MOTION FOR APPEAL BOND**

Plaintiffs, by and through their attorneys, and as their Motion and Memorandum in Support to Postpone Hearing on Plaintiffs' Motion for Appeal Bond, state the following:

1. On April 18, 2013, Plaintiffs filed their Motion and Memorandum of Law in Support of Plaintiffs' Motion for Appeal Bond. *See* Dkt. # 369. With their filing, Plaintiffs demonstrated why the entry of an appeal bond is necessary and appropriate given that this case satisfies each of the factors considered by courts in the Eighth Circuit when entering appeal bonds.
2. After completion of briefing, the Court set an in-court hearing on Plaintiffs' Motion for Appeal Bond for Monday, June 17, 2013 at 2:00 p.m. *See* Dkt. # 384.
3. Under the appeal schedule set by the Eighth Circuit, the Objectors were due to file their opening Appellant's Brief with the Eighth Circuit on May 24, 2013. *See* Dkt. # 368. *See also* Dkt. # 385.
4. However, the Objectors failed to file their Appellant's Brief. *See* Dkt. # 385. As a result, on June 3, 2013, the Eighth Circuit issued an order to show cause why the Objectors' appeal should not be dismissed for failure to prosecute. *Id.* Under the Eighth Circuit's directive, the Objectors must show cause within fourteen (14) days of the date of that order. *Id.*

5. If the Appellants fail to show cause by June 17, 2013 why their appeal should be dismissed, there will be no need for an appeal bond or a hearing on Plaintiffs' Motion for Appeal Bond.

6. To date, Objectors have filed no response to the Eighth Circuit's show cause order nor have they attempted to file their Appellant's Brief.

Accordingly, for the reasons provided above, in the interest of judicial economy, and for good cause shown, Plaintiffs respectfully request that the hearing set for Monday, June 17, 2013 be taken off the docket, and postponed after the Eighth Circuit's determination of whether the appeal should be permitted to go forward.

Dated: June 12, 2013

Respectfully submitted,

/s/ Don M. Downing

Don M. Downing  
Gretchen Garrison  
Thomas Neill  
GRAY, RITTER & GRAHAM, P.C.  
701 Market Street, Suite 800  
St. Louis, MO 63101-1826  
Telephone: (314) 241-5620  
Facsimile: (314) 241-4140

Elizabeth A. Fegan  
Daniel J. Kurowski  
HAGENS BERMAN SOBOL SHAPIRO LLP  
1144 W. Lake Street, Suite 400  
Oak Park, IL 60301  
Telephone: (708) 628-4949  
Fax: (708) 628-4950  
E-mail: beth@hbsslaw.com  
E-mail: dank@hbsslaw.com

*Counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that on June 12, 2013, a true and correct copy of the foregoing, together with all exhibits, was filed electronically via CM/ECF, which caused notice to be sent to all counsel of record.

/s/ Don M. Downing